



City of West Allis

Legislation Text

File #: R-2020-0292, **Version:** 1

Resolution relative to determination of Application for a Special Use Permit for Brainiac's Academy 2 LLC, a proposed education facility, to be located at 5806 W. National Ave.

WHEREAS, Siabrian Turner (Applicant), d/b/a Brainiacs Academy 2 LLC, has duly filed with the City Clerk an application for a Special Use Permit, pursuant to Sec. 12.42(2) and Sec. 12.16 of the Revised Municipal Code, to establish a children's day care facility to be located at 5806 W. National Ave.; and,

WHEREAS, after due notice, a public hearing was held by the Common Council on May 19, 2020, at 7:00 p.m., in the Common Council Chambers to consider the application; and,

WHEREAS, the Common Council, having carefully considered the evidence presented at the public hearing and the following pertinent facts noted:

1. The applicant and property owner, Siabrian Turner, d/b/a Brainiacs Academy 2 LLC, is proposing to establish a children's day care facility at 5806 W. National Ave. (Tax Key No. 438-0298-000). The day care facility will occupy approximately 1,400 sq. ft. of space on the first floor of the existing mixed use (commercial and office) building. An outdoor play area will also be established across the parking lot, behind another building on the same property.
2. Advance to Boardwalk LLC currently owns the subject day care property located at 5806 W. National Ave. The same property owner also owns the shared parking lot at 438-0299-000 (58** block of W. National Ave.) and 5900-02 W. National Ave., West Allis, Milwaukee County, Wisconsin, more particularly described as follows:

All the land of the owner being located in the Southwest $\frac{1}{4}$ of Section 35, Township 7 North, Range 21 East, City of West Allis, Milwaukee County, Wisconsin, described as follows:

Lots 5, 6 and West 28.00 feet of Lot 4 in Block 5 of the Brady's Subdivision.

Tax Key No. 438-0298-000
3. The proposed day care would enroll both infants and children. The facility has a maximum occupancy limit of 31 children and 2 infants. An outdoor play area is planned behind an adjacent commercial building located at 5900-02 W. National Ave. A shared parking lot (58** W. National Ave. Tax key no. 438-0299-000) is located between the subject day care use and the 5900-02 W. National Ave. property.
4. The aforesaid premises is zoned C-3 Community Commercial District, which permits day care facilities as a Special Use pursuant to Sec. 12.42(2) and Sec. 12.16 of the Revised Municipal Code.
5. The subject property is located mid-block between S. 58 St. and S. 59 St. along W. National Ave. Properties to the east, west, and south are zoned and developed for commercial uses, and properties to the north are zoned and developed for low-density residential uses.
6. The proposed development should not adversely contribute to traffic volumes or traffic flow in the area as it has previously been used as a religious institution and before that a children's day care facility.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the application for Special Use submitted by Siabrian Turner, applicant of property located at 5806 W. National Ave. be, and is hereby granted on the following grounds:

That the establishment, maintenance and operation of the proposed use, with the imposition of certain conditions

hereinafter set forth, reasonably satisfies the standards set forth in Secs. 12.16 of the Revised Municipal Code, so as to permit the issuance of a special use permit as therein provided.

BE IT FURTHER RESOLVED that said special use permit is granted subject to the following conditions:

1. Site, Landscaping, Screening, Architectural Signage Plans. The grant of this special use permit is subject to and conditioned upon the site, landscape, screening, and architectural plans approved on April 22, 2020, by the City of West Allis Plan Commission as provided in Sec. 12.13 of the Revised Municipal Code of the City of West Allis. No alteration or modification of the approved plan shall be permitted without approval by the Plan Commission.
2. Building Plans, Fire Codes and Licenses. The grant of this special use is subject to building plans being submitted to and approved by the Department of Building Inspections and Neighborhood Services and by the Fire Department. Any applicable licenses shall be applied for and approved. Capacity shall be in accordance with limits of occupancy load calculations as approved by Building Inspection and Fire Departments. Subject to applicant obtaining all required State of Wisconsin licenses and permissions.
3. Hours of Operation. Regular hours of operation will be 6 am to 10 pm, Monday through Friday.
4. Fencing. An updated fence will replace the chain link fence that currently surrounds the children play lot.
5. Striped Walkway. A striped walkway will be painted within the parking lot connecting the daycare building to the play lot. The purpose of this is to increase the safety of the children moving across the parking lot.
6. Parking. Four (4) parking spaces are required for the property, calculated as follows: one (1) space for every three-hundred (300) square feet of gross floor area. Eight (6) parking spaces are provided on site and nineteen (21) parking spaces are provided on an abutting lot to the west (owned by Advance to Boardwalk, LLC).

Twenty-seven (27) total parking spaces are provided.

7. Litter. Employees shall inspect the area and the immediate vicinity and pick up litter on a daily basis.
8. Refuse Collection. All refuse collection to be provided by commercial hauler and stored within a four-sided enclosure large enough for all outdoor storage of refuse and recyclable containers as approved by the Department of Development.

All tenants of the property will be required to abide by the City of West Allis health/public nuisance rules per Chapter 7 of the Revised Municipal Code. Because there are residents that live within the residential neighborhood adjacent to the site, delivery operations and refuse pick up shall only be permitted during daytime hours. These functions shall not be permitted between the hours of 10:00 p.m. and 7:00 a.m.

9. Outdoor Lighting and Monitoring. All outdoor lighting fixtures shall be shielded in such a manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture, do not splay from the property boundaries. Full cut-off lighting fixtures and/or house side shields shall be utilized on site as necessary to maintain a nuisance-free environment. The site shall be monitored by staff to ensure a safe environment.
10. Sidewalk Repair. The grant of this special use is subject to compliance with Policy No. 2806 of the Revised Municipal Code relative to the City's sidewalk improvement policy as it relates to damaged, (if any) abutting sidewalk.
11. Expiration of Special Use Permit. Any special use approved by the Common Council shall lapse and become null and void one (1) year from and after that approval if the use has not commenced, construction is not underway, or the owner has not obtained a valid building permit. An extension of these time limitations may be granted without a public hearing by the Common Council in accordance with the following criteria:
 - A. The applicant requesting the extension shall complete a planning application available from the Department of Development and shall submit a \$250.00 extension fee.
 - B. A written explanation for the extension of time shall accompany the planning application along with a

timeline/schedule for obtaining necessary permits, zoning, state and municipal approvals and a target date for construction start;

- C. The request for extension shall be submitted within sixty (60) days of the expiration of the special use permit;
- D. The extension, if granted, shall be valid for a period of six (6) months. If no building permit has been issued and construction has not commenced within six (6) months from the date the extension has been granted, the special use shall become null and void.

12. Miscellaneous

- A. Applicants are advised that the foregoing conditions are reasonably necessary to protect the public interest and to secure compliance with the standards and requirements specified in Sec. 12.16 of the Revised Municipal Code; that the issuance of the special use is expressly subject to compliance with said conditions.
- B. The use, as granted herein, is subject to applicants' compliance with all other state and local laws and regulations which may be applicable to the proposed use of the real estate in question.
- C. The special use, as granted herein, shall run with the land and benefit and restrict all future owners and occupants of the property, unless the use shall lapse or be terminated and the use will not be altered or extended (including structural alterations and/or additions) without the approval of the Common Council, following public hearing, all as provided in Sec. 12.16 of the Revised Municipal Code.

13. Lapse. If the applicant does not meet all of the terms and conditions set forth in this grant of a special use within one year of the granting thereof, then the Special Use Permit shall lapse and become null and void and the applicant shall forfeit any right to use the property as conferred by the Special Use Permit. The failure of the applicant to meet the terms and conditions of the Special Use Permit shall subject the permit to being declared void by the Common Council after notice to the applicant and a hearing before the Safety and Development Committee. Upon a finding and recommendation by the Committee to the Common Council on the matter, the applicant and/or any interested person may make comments regarding the matter to the Common Council prior to the Common Council's next regular meeting following the recommendation. Upon the Common Council's finding that the Special Use Permit has lapsed and become void, the applicant shall cease all operations at the property.

14. Termination of Special Use. If the person or entity granted the special use violates, allows or suffers the violation of the ordinances of the City of West Allis, the State of Wisconsin or the United States on the premises covered by the special use, then the special use may be terminated.

15. Acknowledgement. That the applicant signs an acknowledgment that he/she has received these terms and conditions and will abide by them.

The undersigned applicant agrees to the terms and conditions and has agreed that the grant of the Special Use Permit is conditioned on meeting the terms and conditions of this resolution.

Siabrian Turner, Applicant, d/b/a Brainiacs Academy 2 LLC

Property owner or agent for Boardwalk, LLC

Mailed to applicant on the

_____ day of _____, 2020

City Clerk

cc: Dept. of Development
Dept. of Building Inspections and Neighborhood Services
Div. of Planning

ZON-R-1218-5-19-20

Plan Commission recommends approval.